

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No.	:	10/692,082	Confirmation No. 8304
Applicant	:	Richard C. Fickle	
Filed	:	October 22, 2003	
TC/A.U.	:	2623	
Examiner	:	Nnenna Ngozi Ekpo	
Docket No.	:	7593.P004	
Customer No.	:	8791	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Applicant submits the following Appeal Brief pursuant to 37 C.F.R. § 41.37 for consideration by the Board of Patent Appeals and Interferences. Please charge any additional fees or credit any overpayment to our deposit Account No. 02-2666.

TABLE OF CONTENTS

I.	REAL PARTY IN INTEREST	3
II.	RELATED APPEALS AND INTERFERENCES.....	3
III.	STATUS OF CLAIMS	3
IV.	STATUS OF AMENDMENTS	3
V.	SUMMARY OF CLAIMED SUBJECT MATTER	3
VI.	GROUND OF REJECTION TO BE REVIEWED ON APPEAL	7
VII.	ARGUMENTS.....	8
A.	Claims 1-3, 5, 8, 10-15, 20-22, and 28 Are Not Obvious Over Gordon In View Of Rodriguez.....	9
B.	Claims 6, 7, 9, 17-19, 26, And 27 Are Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Arias.....	15
C.	Claims 4, 16, and 23-25 Are Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Crocker.....	17
D.	Claim 29 Is Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Fu	18
VIII.	CONCLUSION.....	21
IX.	CLAIM APPENDIX.....	22
XI.	EVIDENCE APPENDIX.....	28
XII.	RELATED PROCEEDINGS APPENDIX.....	28

I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Ascent Media Group, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to the appellants, the appellants' legal representative, or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-29 of the present application are pending. The Applicant hereby appeals the rejections of claims 1-29.

IV. STATUS OF AMENDMENTS

On December 29, 2008, Applicant filed a response to an Office Action dated October 20, 2008. The Examiner issued a Final Office Action on April 1, 2009. On July 1, 2009, Applicant filed a Notice of Appeal. No amendments have been filed subsequent to the final rejection. Applicant hereby appeals the rejections of claims 1-29.

V. SUMMARY OF CLAIMED SUBJECT MATTER

1. Independent claims 1, 13, and 22:

Independent claim 1 recites, "A method comprising: assigning a unique process identification number (PID) to a frequency band (Paragraph [0010], lines 4-6; Paragraph [0044], lines 10-14) used by each of a plurality of multimedia content providers (Paragraph [0044], lines 14-17); simultaneously receiving a plurality of data segments from the plurality of multimedia content providers (Paragraph [0010], lines 6-8); Paragraph [0044], lines 32-38), wherein the data segments are tracked using the PID assigned to the frequency band used by each multimedia content provider (Paragraph [0010], lines 8-10); reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package

(Paragraph [0010], lines 10-13); and providing the multimedia asset package to a video-on-demand server (Figure 2, VOD server 250) that transmits at least a portion of the multimedia asset package to an end user (Paragraph [0010], lines 13-16).”

Independent claim 13 recites, “A method comprising: assigning a unique process identification number (PID) to each of a plurality of frequency bands (Paragraph [0010], lines 4-6; Paragraph [0044], lines 10-14) used by a plurality of multimedia content providers (Paragraph [0044], lines 14-17); receiving a plurality of multimedia data segments from the plurality of multimedia content providers, wherein the multimedia data segments are received simultaneously (Paragraph [0010], lines 6-8); Paragraph [0044], lines 32-38), the multimedia data segments are tracked using the PIDs (Paragraph [0010], lines 8-10), and the plurality of multimedia data segments form a complete multimedia asset package; forming the complete multimedia asset package using the plurality of multimedia data segments (Paragraph [0011], lines 8-11); validating the complete multimedia asset to confirm successful receipt of the complete multimedia asset (Paragraph [0011], lines 11-13); and providing each complete multimedia asset package to a video-on-demand server (Figure 2, VOD server 250) that transmits multimedia assets to end users (Paragraph [0011], lines 13-15).

Independent claim 22 recites, “A multimedia catcher receiver (Paragraph [0012], lines 1-2; Paragraph [0038], lines 4-6; Figure 1, catcher 200), comprising: a multimedia network interface unit to simultaneously receive a plurality of multimedia data segments sent from a plurality of multimedia content providers (Paragraph [0012], lines 2-6) and to provide the multimedia data segments (Paragraph [0012], lines 6-7); a receive unit coupled to the multimedia network interface unit (Paragraph [0012], lines 7-9) to reconstruct a complete multimedia asset package from the plurality of multimedia data segments provided by the multimedia network interface unit (Paragraph [0012], lines 9-12), and to validate the complete multimedia asset package (Paragraph [0012], lines 12-14); and a content management system to receive multimedia asset packages from the receive unit (Paragraph [0012], lines 14-16; Figure 2, Catcher CMS 208), manage the received multimedia asset packages (Paragraph [0012], lines 16-17), and provide the multimedia asset packages to a multimedia server (Paragraph [0012], lines 17-18); wherein each frequency band used by a multimedia content provider is assigned a unique process

identification number (PID) (Paragraph [0012], lines 19-21), and the multimedia asset packages are tracked using at least the PID assigned to the frequency band used by the multimedia content provider (Paragraph [0012], lines 21-23).

2. Dependent claims 2-12, 14-21, and 23-29:

Claims 2 and 14 recite, in essence, “wherein simultaneously receiving the plurality of data segments comprises receiving at least three data segments simultaneously from different multimedia content providers (Paragraph [0044], lines 20-38).”

Claim 3 and 15 recite, in essence, “wherein simultaneously receiving the plurality of data segments comprises simultaneously receiving the plurality of data segments on different frequency bands (Paragraph [0044], lines 17-38).”

Claim 4, 16, and 23 recite, in essence, “wherein simultaneously receiving the plurality of data segments comprises receiving data segments from each multimedia content provider using a separate data receiver card for each frequency band used by each content provider (Paragraph [0042], lines -19; Paragraph [0044], lines 5-8).”

Claims 5 and 17 recite, in essence, “providing a backchannel connection to each multimedia content provider to enable the multimedia content provider to track the receipt of data segments transmitted by the multimedia content provider (Paragraph [0041], lines 6-11).”

Claims 6 and 26 recite, in essence, “providing acknowledgements of receipt of a multimedia asset package to the multimedia content provider using the backchannel connection (Paragraph [0041], lines 6-11).”

Claims 7, 18, and 27 recite, in essence, “wherein the backchannel connection is a network connection chosen from the group consisting of an internet connection, a public switched telephone network (PSTN) connection, and a virtual private network (VPN) connection (Paragraph [0041], lines 11-15).”

Claim 8 recites, in essence “validating the multimedia asset package to confirm successful receipt of the multimedia asset package (Paragraph [0045], lines 16-23)”

Claims 9 and 19 recite, in essence, “receiving metadata that accompanies the data segments of the multimedia asset package; and analyzing the metadata to determine whether the complete multimedia asset package is received (Paragraph [0045], lines 16-23).”

Claims 10 and 20 recite, in essence, “wherein validating the multimedia asset package occurs before providing the multimedia asset package to the video-on-demand server (Paragraph [0049], lines 1-3).”

Claims 11 and 21 recite, in essence, “receiving a request for a movie file from the multimedia asset package from the end user; comparing metadata associated with the multimedia asset package with validation logic and business rules restricting use of the movie file; and providing the movie file to the end user if the metadata complies with the validation logic and business rules (Paragraph [0066], lines 1-17).”

Claim 12 recites, in essence, “enabling a user to determine an order in which multimedia asset packages, including the multimedia asset package, are provided to the video-on-demand server (Paragraph [0049], lines 13-18).”

Claim 24 recites, in essence, “wherein the multimedia network interface unit comprises a plurality of data receiver cards configured to receive satellite transmissions and a network interface card configured to receive terrestrial transmissions (Paragraph [0044], lines 1-5).”

Claim 25 recites, in essence, “wherein the network interface card comprises an ethernet card (Paragraph [0041], lines 15-18).”

Claim 29 recites, in essence, “wherein the asset receive unit comprises at least one data input unit taken from the group consisting of a digital versatile disk (DVD)-based drive and a file transfer protocol (FTP) server interface Paragraph [0040], lines 4-9).”

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Claims 1-3, 5, 8, 10-15, 20-22, and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,621,870 issued to Gordon et al. ("Gordon") in view of U.S. Publication No. 2002/0059623 issued to Rodriguez et al. ("Rodriguez").
- B. Claims 6, 7, 9, 17-19, 26, and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claims 5, 8, 13, and 22 above, and further in view of U.S. Patent No. 6,118,976 issued to Arias et al. ("Arias").
- C. Claims 4, 16, and 23-25 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claims 1, 13, and 22 above, and further in view of U.S. Patent No. 7,065,779 issued to Crocker et al. ("Crocker").
- D. Claim 29 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claim 28 above, and further in view of U.S. Patent No. 6,882,793 issued to Fu et al. ("Fu").

VII. ARGUMENTS

In the Final Office Action, the Examiner rejected claims 1-29 under 35 U.S.C. §103(a). Applicant respectfully traverses the rejections and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

In the Final Office Action, the Examiner rejected claims 1-3, 5, 8, 10-15, 20-22, and 28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,621,870 issued to Gordon et al. ("Gordon") in view of U.S. Publication No. 2002/0059623 issued to Rodriguez et al. ("Rodriguez"); claims 6, 7, 9, 17-19, 26, and 27 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claims 5, 8, 13, and 22 above, and further in view of U.S. Patent No. 6,118,976 issued to Arias et al. ("Arias"); claims 4, 16, and 23-25 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claims 1, 13, and 22 above, and further in view of U.S. Patent No. 7,065,779 issued to Crocker et al. ("Crocker"); claim 29 under 35 U.S.C. §103(a) as being unpatentable over Gordon in view of Rodriguez as applied to claim 28 above, and further in view of U.S. Patent No. 6,882,793 issued to Fu et al. ("Fu"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP §2143, p. 2100-126 to 2100-130 (8th Ed., Rev. 5, August 2006)*. Applicant respectfully submits that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." MPEP 2141. In *KSR*

International Co. vs. Teleflex, Inc., 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” The Court further required that an explicit analysis for this reason must be made. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR* 127 S.Ct. at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

A. Claims 1-3, 5, 8, 10-15, 20-22, and 28 Are Not Obvious Over Gordon In View Of Rodriguez.

Gordon discloses a method and apparatus for compressing video sequences. An information distribution system 100, e.g., a video-on-demand system or digital cable system, contains service provider equipment (SPE) 102, a distribution network 104 and subscriber equipment (SE) 106 (Gordon, col. 4, lines 14-21). An encoding and multiplexing unit 116 in the SPE 102 produces a transport stream comprising a plurality of encoded video, audio, and data elementary streams (Gordon, col. 5, lines 23-27). The video sequences V1-V10 are coupled to respective real time encoders 220. Each encoder 220 encodes a composited interactive program guide (IPG) screen sequence to form a corresponding compressed video bit stream (Gordon, col. 6, lines 14-17). A packetizer assigns a packet identification (PID) to each of the packets representing information from the stream (Gordon, col. 8, lines 6-9).

Rodriguez discloses a digital subscriber television networks with local physical storage devices and virtual storage. The content provider 18 transmits the content to a headend 26 for further transmission to subscribers downstream in the digital broadcast delivery system (DBDS) 10 (Rodriguez, paragraph [0023], lines 1-3). A typical DBDS 10

is composed of interfaces to content providers 18, core networks 30 of headends 26, and subscriber digital home communication terminal (DHCTs) 14 (Rodriguez, paragraph [0020], lines 5-9). The DHCT 14 includes a memory controller 134 and a Media Memory 126 (Rodriguez, paragraph [0079], lines 1-2). One or more video decoders 136 in the DHCT 14 decompress compressed MPEG-2 video streams (Rodriguez, paragraph [0080], lines 9-16). Pictures are decompressed in the video decoder 136 and scaled down as they are being reconstructed (Rodriguez, paragraph [0081], lines 1-5). A headend 26B receives content from a variety of service and content providers 18. The headend 26B combines the content from the various sources and distributes the content to subscribers via distribution network 38 (Rodriguez, paragraph [0038], lines 6-11). The various inputs into the headend 26B are then combined with the other information from the control system 232, which is specific to the DBDS 10, such as local programming and control information, which can include conditional access information (Rodriguez, paragraph [0042], lines 1-5).

Gordon and Rodriguez, taken alone or in any combination, do not disclose or render obvious, at least one of: (1) assigning a unique process identification number (PID) to a frequency band used by each of a plurality of multimedia content providers, (2) simultaneously receiving a plurality of data segments from the plurality of multimedia content providers, wherein the data segments are tracked using the PID assigned to the frequency band used by each multimedia content provider; (3) reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package; (4) providing the multimedia asset package to a video-on-demand server that transmits at least a portion of the multimedia asset package to an end user, as recited in claim 1; (5) validating the complete multimedia asset to confirm successful receipt of the complete multimedia asset, as recited in claim 13; and (6) a content management system to receive multimedia asset packages from the receive unit, manage the received multimedia asset packages, and provide the multimedia asset packages to a multimedia server, as recited in claim 22.

First, Gordon merely discloses a predicted frame stream being assigned a packet identifier (PID) code and other streams being each assigned their own separate PIDs (Gordon, col. 2, lines 60-62), not a process identification number assigned to a frequency band used by each of a plurality of multimedia content providers. Gordon's PID refers to the ID of a packet. Gordon specifically discloses that the PID field contains thirteen bits

and uniquely identifies each packet that contains a portion of s stream of video information as well as audio information and data (Gordon, col. 8, lines 49-50). A packet is merely a portion of the stream. Therefore it is not the frequency band used by a content provider. The frequency band is used by the content provider to transmit a multimedia asset package.

Second, Gordon merely discloses an interactive program guide (IPG) display 900 comprising a plurality of channel content objects 910-1 through 910-8 (Gordon, col. 14, lines 30-31; Fig. 9), not simultaneously receiving a plurality of data segments from the plurality of multimedia content providers, wherein the data segments are tracked using the PID assigned to the frequency band used by each multimedia content provider. The channel content objects 910-1 through 910-8 merely shows the various programs from different channels that are available during time slot objects 905A, 905B, and 905C (Gordon, col. 14, lines 29-31; Fig. 9). These programs are not data segments that are tracked using the PID assigned to the frequency band used by each multimedia content provider.

Third, Rodriguez merely discloses a digital home communication terminal (DHCTs) 14 at a subscriber home (Rodriguez, paragraph [0020], lines 5-9; Figure 1), not a multimedia catcher receiver. The DHCT 14 is situated at a user's residence or place of business (Rodriguez, paragraph [0052], lines 11-12). Therefore, it can only receive the video streams as delivered by the headend 26. It is not capable of reconstructing a multimedia asset package and providing the multimedia asset package to a video-on-demand server that transmits at least a portion of the multimedia asset package to an end user. The recitation that "providing the multimedia asset package to a video-on-demand server" clearly indicates that the operations of "reconstructing" and "providing" are performed externally and before the video-on-demand server, which in turn, externally and before the end user. Therefore, the DHCT 14, being a terminal at the end user's residence, cannot reconstruct the multimedia asset package and transmit the multimedia asset package to the video-on-demand server.

Fourth, Rodriguez merely discloses decompressing compressed MPEG-2 video streams (Rodriguez, paragraph [0080], lines 9-16) and stored reconstructed pictures in media memory 126 (Rodriguez, paragraph [0081], lines 1-8), not reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package. Decompressing

compressed video streams is not the same as compiling the data segments that constitute the multimedia asset package.

The Examiner admits that Gordon does not disclose reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package and providing the multimedia asset package to a video-on-demand server that transmits at least a portion of the multimedia asset package to an end user (Final Office Action, Paragraph 12, page 5), but contends that Rodriguez discloses these elements, citing paragraphs [0080]-[0081] and [0041]-[0042] (Final Office Action, page 6, lines 3-9). Applicant respectfully disagrees for the following reasons. For ease of reference, the cited excerpts are copied below.

“Next, a description of the related functions of the Graphics/Media engine 132, system memory 112, processor 110 and Media Memory 126 will be described with reference to FIG. 4, according to one aspect of the invention. First, compressed video and audio streams received through an in-band tuner or read from the local storage device 373 is deposited continuously into a compressed audio and video section 127 of the Media Memory 126. Thereafter, as shown in FIG. 4, one or more video decoders 136 in the DHCT 14, and more specifically, within the Graphics/Media engine 132, decompress compressed MPEG-2 Main Profile/Main Level video streams read into a video decoder 136 from the Media Memory's compressed video buffer 127. **Each picture decompressed by the video decoder 136 is written to a picture buffer 129 in the Media Memory 126, where the reconstructed pictures are retained.**” (Rodriguez, paragraph [0080], *emphasis added*.)

“Alternatively, the pictures may be decompressed in the video decoder 136, then scaled down **as they are being reconstructed in a procedural fashion by feeding data of the reconstructed pictures in raster-scan order from the video decoder 136 to the video scaling unit 160.** According to this alternative, the scaled down reconstructed picture can be stored in one of multiple scaled video picture buffers 137 in Media Memory 126 in raster-scan order as they are reconstructed, such that a respective scaled video picture buffer 137 is dedicated to the motion video picture of a program or video object (read from the local storage device 373) and included in the displayed presentation.” (Rodriguez, paragraph [0081], *emphasis added*.)

“The switch, such as asynchronous transfer mode (ATM) switch 224, provides an interface to an application server 216. **There can be multiple application servers 216 providing a variety of services such as a Pay-Per-View service, including video on demand (VOD),** a data service, an Internet service, a network system, or a telephone system. Service and content providers 18 (shown in FIG. 1) may download content to an application server 216 located within the DBDS 10. The application server 216 may be located within headend 26B or elsewhere within DBDS 10, such as in a hub 34.” (Rodriguez, paragraph [0041], *emphasis added*.)

“The various inputs into the headend 26B are then combined with the other information from the control system 232, which is specific to the DBDS 10, such as local programming and control information, which can include among other things conditional access information. The headend 26B contains one or more modulators (or QAM Group) 228 to convert the received transport streams 240 into modulated output signals suitable for transmission over the transmission medium 250 through the network 38. Each modulator 228 may be a multimodulator including a plurality of modulators, such as, but not limited to, QAM modulators, that radio frequency modulate at least a portion of the input the transport streams 240 and transmit therefrom output transport streams 242. **The output signals 242 from the various modulators 228 or multimodulators are combined, using equipment such as a combiner 230, for input into the transmission medium 250, which is sent via the in-band delivery path 254 to the subscriber locations** (not shown).” (Rodriguez, paragraph [0042], *emphasis added*.)

As seen from the above excerpts, Rodriguez merely discloses reconstructing the pictures by decompressing compressed MPEG-2 video stream (Rodriguez, paragraph [0080], lines 11-16), not reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package. Decompressing merely performs decompression of the individual pictures. It does not compile the data segments into a multimedia asset package.

Moreover, Rodriguez merely discloses sending the combined content via the in-band delivery path to the subscriber location (Rodriguez, paragraph [0042], lines 17-19), not providing the multimedia asset package to a video-on-demand server. Rodriguez specifically discloses a server 216 including video-on-demand placed before the headend

26B (Rodriguez, Figure 3B; paragraph [0041], lines 3-6). Therefore, the headend 26B cannot provide the combined content to the video-on-demand server.

Regarding claim 13, the Examiner admits that Gordon does not disclose validating the complete multimedia asset to confirm successful receipt of the complete multimedia asset and providing the multimedia asset package to a video-on-demand server (Final Office Action, page 7, lines 8-11), but contends that Rodriguez discloses these elements, citing paragraphs [0054] (Final Office Action, page 7, lines 12-15). Applicant respectfully disagrees for the following reasons. For ease of reference, the cited excerpt (paragraph [0054]) is copied below.

“A Storage Device Controller 379 in the storage device 373 of DHCT 14, in cooperation with device driver 311 and the operating system 353 (to be described below), **grants access to write data to or read data from the local storage device 373**. Processor 110 can transfer media content and/or data from System Memory 112 to the local storage device 373 or from the local storage device 373 to the system memory 112 by communication and acknowledgement with the Storage Device Controller 379. In one implementation, media content (such as movies, music, games, etc.) and/or data received from the subscriber TV network or from locally connected peripheral devices can be transferred from system memory 112 to the local storage device 373 or from the storage device 373 to system memory 112. Such operations, when effected, support data routing from or to the local storage device 373.” (Rodriguez, paragraph [0054], *emphasis added*.)

As seen from the above excerpt, Rodriguez merely discloses a storage device controller grants access to write data to or read data from the local storage device 373 (Rodriguez, paragraph [0054], lines 1-5), not validating the complete multimedia asset to confirm successful receipt of the complete multimedia asset. Granting access to a local storage device is not the same as validating the complete multimedia asset. A local storage device is not a multimedia asset. In addition, granting access merely allows writing to or reading from the device, it does not confirm successful receipt of the complete multimedia asset.

Regarding claim 22, the Examiner admits that Gordon fails to disclose a multimedia catcher receiver comprising a multimedia network interface unit, a receive unit, and a content management system (Final Office Action, page 8, second and third

paragraphs), but contends that Rodriguez discloses these elements. As discussed above, Rodriguez does not disclose or render obvious reconstructing and validating a complete multimedia asset package. Regarding the content management system, the Examiner merely asserts that Rodriguez discloses a content management system, citing paragraph [0036] (Final Office Action, page 9, third paragraph). Applicant respectfully disagrees. For ease of reference, the cited excerpt is copied below.

“A VOD content manager 221 is responsible for managing the content on the VOD content servers 222.

The MOD server application 219 controls both the VOD content manager 221 and the VOD content servers 222 and utilizes them to help deliver the video and audio streams that make up VOD services. In one embodiment, other media content managers and content servers (not shown) could run respectively in parallel to the VOD content manager 221 and VOD content servers 222 to provide other types of on-demand media content. The QAM modulators that comprise the QAM group 228 receive the MPEG-2 transport streams from the VOD content servers 222, convert them into encrypted RF signals at a specified frequency (channel), and transmit them to a DHCT 14 via the network 38.” (Rodriguez, paragraph [0036], *emphasis added*.)

As seen from the above excerpt, Rodriguez merely discloses a VOD content manager 221 is responsible for managing the content on the VOD content servers 222 (Rodriguez, paragraph [0036], lines 1-2), not a content management system to receive multimedia asset packages from the receive unit, manage the received multimedia asset packages, and provide the multimedia asset packages to a multimedia server. The claim recitation “provide the multimedia asset packages to a multimedia server” indicates that the management of the multimedia asset packages and providing them to the server are performed externally and before the multimedia (e.g., the VOD) server. Accordingly, the VOD content manager as disclosed by Rodriguez cannot manage the received multimedia asset package and provide it to itself.

B. Claims 6, 7, 9, 17-19, 26, And 27 Are Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Arias.

Gordon and Rodriguez are discussed above.

Arias discloses an asymmetric data communications system. Messages from subscriber 30 are transmitted via PSTN lines 40 to a return path facility 50 (Arias, col. 5,

lines 49-54). Messages can be sent by program subsystem 10 to return path facility such as to acknowledge an authorization request (Arias, col. 7, lines 19-22).

Gordon, Rodriguez, and Arias, taken alone or in any combination, do not disclose or render obvious, at least one of: (1) – (3) as above, (4) providing acknowledgements of receipt of a multimedia asset package to the multimedia content provider using the backchannel connection, as recited in claims 6, 17, and 26; and (5) the backchannel connection is a network connection chosen from the group consisting of an internet connection, a public switched telephone network (PSTN) connection, and a virtual private network (VPN) connection, as recited in claims 7, 18, and 27; and (6a) receiving metadata that accompanies the data segments of the multimedia asset package, and (6b) analyzing the metadata to determine whether the complete multimedia asset package is received, as recited in claim 9.

As discussed above, Gordon and Rodriguez, taken alone or in any combination, do not disclose or render obvious (1) – (3) above. Accordingly, a combination of Gordon and Rodriguez with any other references in rejecting claims 6-9, 17-18, and 26-27, which depend on claims 1, 13, and 22, respectively, is improper.

Furthermore, Arias merely discloses messages can be sent by program subsystem 10 to return path facility such as to acknowledge an authorization request (Arias, col. 7, lines 19-22), not providing acknowledgements of receipt of a multimedia asset package to the multimedia content provider. An authorization request is a request for authorization for requested programming (Arias, col. 7, lines 7-10). It is not a receipt of a multimedia asset package. A request for authorization means that the requested programming has not been authorized. Therefore, the program cannot be delivered. Since it cannot be delivered, it cannot be received. Accordingly, an acknowledgement of a request for authorization is not the same as an acknowledgement of receipt of a multimedia asset package. Moreover, the acknowledgement of an authorization request is to send to the subscriber, not to the multimedia content provider.

Regarding the PSTN, it is used for messages from subscriber 30 to a return path facility 50 (Arias, col. 5, lines 49-54). Accordingly, it is not used to provide acknowledgements to the multimedia content provider.

Regarding receiving metadata and analyzing the metadata, Arias merely discloses requests for authorization, or input received over the link 52 being processed, managed,

and stored by processor 24 (Arias, col. 7, lines 10-12; lines 15-19). None of these involves the use of metadata. Furthermore, none of these is related to determining whether the complete multimedia asset package is received.

C. Claims 4, 16, and 23-25 Are Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Crocker.

Gordon and Rodriguez are discussed above.

Crocker discloses a technique for synchronizing multiple access controllers at the head end of an access network. A Cable Modem Termination System (CMTS) 210 includes a plurality of physically distinct line cards. Each line card provides a separate interface for communicating with a specific group of cable modems in the network (Crocker, col. 5, lines 62-66). A synchronization circuitry 350 causes each of the timestamp counters within each respective MAC controller to be in synchronization. Accordingly, cable modem CM1 (361) is able to use the timestamp message on downstream channel B (323b) to communicate with the upstream receivers 305 on line card A (Crocker, col.11, lines 27-33).

Gordon, Rodriguez, and Crocker, taken alone or in any combination, do not disclose or render obvious, at least one of: (1) – (3) as above, (7) receiving data segments from each multimedia content provider using a separate data receiver card for each frequency band used by each content provider, as recited in claims 4, 16, 23-25.

As discussed above, Gordon and Rodriguez, taken alone or in any combination, do not disclose or render obvious (1) – (3) above. Accordingly, a combination of Gordon and Rodriguez with any other references in rejecting claims 4, 16, and 23-25, which depend on claims 1, 13, and 22, respectively, is improper.

Furthermore, Crocker merely discloses line cards that provide a separate interface for communicating with a specific group of cable modems in the network (Crocker, col. 5, lines 62-66), not a separate data receiver card for each frequency band used by each content provider. Crocker specifically disclose line card A 202 includes a distinct group of ports (e.g., 205, 212) for communicating with cable modem Group A 260a, and line card B includes a separate distinct group of ports (e.g., 225, 222) for communicating with cable modem Group B 260b (Crocker, col. 5, line 66 – col. 6, line 4). In other words, the line card merely contains interface ports connected to different cable modems. Each line

card is typically assigned to a separate DOCSIS domain, which is a collection of downstream and upstream channels for which a single MAC Allocation and Management protocol operates (Crocker, col. 2, lines 36-41). The DOCSIS domain has no distinction of which content provider providing the content transmitted on the channel. The line cards therefore do not operate according to the frequency bands assigned to the content providers.

D. Claim 29 Is Not Obvious Over Gordon In View Of Rodriguez And Further In View Of Fu

Gordon and Rodriguez are discussed above.

Fu discloses a video processing system. A production system 90 produces a published version of a selected album (Fu, col. 4, lines 54-55). An information stream can be produced to deliver a version of the content to the distributees. The information stream can be delivered by a delivery system such as the World Wide Web using an internet enabled set top box (using the file transfer protocol ftp), DVD player or personal computer, a cable system incorporating a video-on-demand set top box, or satellite system (satellite narrowcast) (Fu, col. 4, line 62 – col. 5, line 3).

Gordon, Rodriguez, and Fu, taken alone or in any combination, do not disclose or render obvious, at least one of: (1) – (3) as above, (8) at least one data input unit taken from the group consisting of a digital versatile disk (DVD)-based drive and a file transfer protocol (FTP) server interface, as recited in claim 29.

As discussed above, Gordon and Rodriguez, taken alone or in any combination, do not disclose or render obvious (1) – (3) above. Accordingly, a combination of Gordon and Rodriguez with any other references in rejecting claim 29 which depend on claim 22 is improper.

Furthermore, Fu merely discloses the information stream can be delivered by a delivery system using the file transfer protocol ftp, DVD player or personal computer (Fu, col. 4, lines 63-66), not at least one data input unit taken from the group consisting of a digital versatile disk (DVD)-based drive and a file transfer protocol (FTP) server interface. The information is transmitted by a delivery system, not received by a receive unit. In contrast, claim 29 recites a data input unit which is part of a receive unit.

The Examiner failed to establish a prima facie case of obviousness and failed to show there is teaching, suggestion, or motivation to combine the references. When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Col, Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). “When determining the patentability of a claimed invention which combined two known elements, ‘the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.’” *In re Beattie*, 974 F.2d 1309, 1312 (Fed. Cir. 1992), 24 USPQ2d 1040; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. *Interconnect Planning Corp. v. Feil*, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device “may be

capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” *In re Mills*, 916 F.2d at 682, 16 USPQ2d at 1432; *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992), 23 USPQ2d 1780.

Moreover, the Examiner failed to establish the factual inquiries in the three-pronged test as required by the *Graham* factual inquiries. There are significant differences between the cited references and the claimed invention as discussed above. Furthermore, the Examiner has not made an explicit analysis on the apparent reason to combine the known elements in the fashion in the claimed invention. Accordingly, there is no apparent reason to combine the teachings of Gordon, Rodriguez, Arias, Crocker, and Fu in any combination.

In the present invention, the cited references do not expressly or implicitly disclose any of the above elements. In addition, the Examiner failed to present a convincing line of reasoning as to why a combination of Gordon, Rodriguez, Arias, Crocker, and Fu is an obvious application of multicast media distribution system or an explicit analysis on the apparent reason to combine Gordon, Rodriguez, Arias, Crocker, and Fu in the manner as claimed.

Therefore, Applicant believes that independent claims 1, 13, and 22 and their respective dependent claims are distinguishable over the cited prior art references.

VIII. CONCLUSION

Applicant respectfully requests that the Board enter a decision overturning the Examiner's rejection of all pending claims, and holding that the claims satisfy the requirements of 35 U.S.C. §103(a).

Respectfully submitted,

Blakely, Sokoloff, Taylor & Zafman LLP

Dated: August 26, 2009

By / THINH V. NGUYEN /

THINH V. NGUYEN
Reg. No. 42,034
Tel.: (714) 557-3800
Fax: (714) 557-3347

IX. CLAIM APPENDIX

The claims of the present application which are involved in this appeal are as follows:

1. (previously presented) A method comprising:
assigning a unique process identification number (PID) to a frequency band used by each of a plurality of multimedia content providers;
simultaneously receiving a plurality of data segments from the plurality of multimedia content providers, wherein the data segments are tracked using the PID assigned to the frequency band used by each multimedia content provider;
reconstructing a multimedia asset package transmitted by the multimedia content provider by compiling the plurality of data segments that constitute the multimedia asset package; and
providing the multimedia asset package to a video-on-demand server that transmits at least a portion of the multimedia asset package to an end user.
2. (previously presented) The method of claim 1, wherein simultaneously receiving the plurality of data segments comprises receiving at least three data segments simultaneously from different multimedia content providers.
3. (previously presented) The method of claim 1, wherein simultaneously receiving the plurality of data segments comprises simultaneously receiving the plurality of data segments on different frequency bands.
4. (previously presented) The method of claim 1, wherein simultaneously receiving the plurality of data segments comprises receiving data segments from each multimedia content provider using a separate data receiver card for each frequency band used by each content provider.
5. (original) The method of claim 1, further comprising:
providing a backchannel connection to each multimedia content provider to enable

the multimedia content provider to track the receipt of data segments transmitted by the multimedia content provider.

6. (original) The method of claim 5, further comprising:
providing acknowledgements of receipt of a multimedia asset package to the multimedia content provider using the backchannel connection.

7. (original) The method of claim 5, wherein the backchannel connection is a network connection chosen from the group consisting of an internet connection, a public switched telephone network (PSTN) connection, and a virtual private network (VPN) connection.

8. (previously presented) The method of claim 1 wherein reconstructing the multimedia asset package comprises:
validating the multimedia asset package to confirm successful receipt of the multimedia asset package.

9. (previously presented) The method of claim 8, wherein validating the multimedia asset package comprises:
receiving metadata that accompanies the data segments of the multimedia asset package; and
analyzing the metadata to determine whether the complete multimedia asset package is received.

10. (original) The method of claim 8, wherein validating the multimedia asset package occurs before providing the multimedia asset package to the video-on-demand server.

11. (previously presented) The method of claim 1 further comprising:
receiving a request for a movie file from the multimedia asset package from the end user;
comparing metadata associated with the multimedia asset package with validation logic and business rules restricting use of the movie file; and

providing the movie file to the end user if the metadata complies with the validation logic and business rules.

12. (previously presented) The method of claim 1, further comprising: enabling a user to determine an order in which multimedia asset packages, including the multimedia asset package, are provided to the video-on-demand server.

13. (previously presented) A method comprising:
assigning a unique process identification number (PID) to each of a plurality of frequency bands used by a plurality of multimedia content providers;
receiving a plurality of multimedia data segments from the plurality of multimedia content providers, wherein the multimedia data segments are received simultaneously, the multimedia data segments are tracked using the PIDs, and the plurality of multimedia data segments form a complete multimedia asset package;
forming the complete multimedia asset package using the plurality of multimedia data segments;
validating the complete multimedia asset to confirm successful receipt of the complete multimedia asset; and
providing each complete multimedia asset package to a video-on-demand server that transmits multimedia assets to end users.

14. (previously presented) The method of claim 13, wherein receiving the plurality of multimedia data segments comprises simultaneously receiving at least three multimedia data segments simultaneously from three different multimedia content providers.

15. (previously presented) The method of claim 13, wherein receiving the plurality of multimedia data segments comprises simultaneously receiving the plurality of multimedia data segments from different multimedia content providers on different frequency bands, and the multimedia data segments for a complete multimedia asset package transmitted by a particular multimedia content provider are transmitted on a common frequency band.

16. (previously presented) The method of claim 13, wherein receiving the plurality of multimedia data segments comprises receiving the multimedia data segments from different multimedia content providers using a separate data receiver card for each different frequency band used by the content providers.

17. (original) The method of claim 13, further comprising:
providing a backchannel connection to each multimedia content provider to provide each multimedia content provider with acknowledgements of either successful or unsuccessful receipt of a complete multimedia asset package.

18. (original) The method of claim 17, wherein the backchannel connection is a network connection chosen from the group consisting of an internet connection, a public switched telephone network (PSTN) connection, and a virtual private network (VPN) connection.

19. (previously presented) The method of claim 13, wherein validating the complete multimedia asset package comprises:
receiving metadata that accompanies the multimedia data segments of the complete multimedia asset package; and
analyzing the metadata to determine whether the complete multimedia asset package has been received.

20. (original) The method of claim 13, wherein validating the complete multimedia asset package occurs before providing the complete multimedia asset package to the multimedia server.

21. (original) The method of claim 13, further comprising:
providing a portion of the complete multimedia asset package to a requesting end user by comparing metadata associated with the complete multimedia asset package with validation logic and business rules governing authorized users of the asset package, and transmitting the portion of the complete multimedia asset package to the end user if the metadata complies with the validation logic and business rules.

22. (previously presented) A multimedia catcher receiver, comprising:
a multimedia network interface unit to simultaneously receive a plurality of multimedia data segments sent from a plurality of multimedia content providers and to provide the multimedia data segments;

a receive unit coupled to the multimedia network interface unit to reconstruct a complete multimedia asset package from the plurality of multimedia data segments provided by the multimedia network interface unit, and to validate the complete multimedia asset package; and

a content management system to receive multimedia asset packages from the receive unit, manage the received multimedia asset packages, and provide the multimedia asset packages to a multimedia server;

wherein each frequency band used by a multimedia content provider is assigned a unique process identification number (PID), and the multimedia asset packages are tracked using at least the PID assigned to the frequency band used by the multimedia content provider.

23. (original) The multimedia catcher receiver of claim 22, wherein the multimedia network interface unit comprises a plurality of data receiver cards configured to receive satellite transmissions.

24. (original) The multimedia catcher receiver of claim 22, wherein the multimedia network interface unit comprises a plurality of data receiver cards configured to receive satellite transmissions and a network interface card configured to receive terrestrial transmissions.

25. (original) The multimedia catcher receiver of claim 24, wherein the network interface card comprises an ethernet card.

26. (original) The multimedia catcher receiver of claim 22, wherein the receive unit comprises a backchannel network to provide a communication pathway between the multimedia catcher receiver and the plurality of multimedia content providers to provide acknowledgements of successful receipt of multimedia asset packages to the multimedia content providers.

27. (original) The multimedia catcher receiver of claim 26, wherein the backchannel network is a network connection chosen from the group consisting of an internet connection, a public switched telephone network (PSTN) connection, and a virtual private network (VPN) connection.

28. (original) The multimedia catcher receiver of claim 22, comprising an asset receive unit coupled to the receive unit and to the content management system, and capable of processing multimedia asset packages from the receive unit and multimedia asset packages received from a local source.

29. (previously presented) The multimedia catcher receiver of claim 28, wherein the asset receive unit comprises at least one data input unit taken from the group consisting of a digital versatile disk (DVD)-based drive and a file transfer protocol (FTP) server interface.

XI. EVIDENCE APPENDIX

None

XII. RELATED PROCEEDINGS APPENDIX

None